

IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN AT JAIPUR BENCH, JAIPUR

D.B. Civil Special Appeal (Writ) No.
1142/2005

Rajendra Kumawat S/o Shri Gopi Ram
Kumawat, aged about 23 years, resident of
62/35, Pratap Nagar Housing Board,
Sanganer, Jaipur

.....Appellant

Versus

1. Rajasthan Public Service Commission,
Ajmer through its Secretary

2. State of Rajasthan through its
Secretary to the Government, Department of
Personnel, Government of Rajasthan,
Secretariat, Jaipur

.....Respondents

Date of Order :: 11th April, 2007

PRESENT

Hon'ble Mr. Justice R.M. Lodha
Hon'ble Mr. Justice R.S. Chauhan

Ms. Anita Aggarwal for Mr. G.K. Garg for
the appellant

Per Court:

This special appeal is at the instance

of the unsuccessful petitioner. Pursuant to the advertisement issued by the Rajasthan Public Service Commission on 6th April, 2003 for recruitment in the State Service and Subordinate services, the petitioner appeared in the preliminary examination and declared pass. According to him the result of the Rajasthan Administrative Service main examination was declared in the 1st week of May and he was awarded 48.33%. He filed writ petition before this Court challenging the legality of Rule 15 of The Rajasthan State and Subordinate Services (Direct Recruitment by Combined Competitive Examinations) Rules, 1999 and so also rule 18 thereof and prayed that the declaration of the result of main examination of Rajasthan Administrative Service be held bad in law. Some ancillary reliefs were also claimed. The principal grounds of challenge were:

(one) that the marks awarded by the Commission show that they are categorized under the heads of variable marks and scaled marks, which is not permissible under the Rules of 1999; (two) that Rule 15 is capable of being misused by Commission. According to the petitioner right to admit fifteen times of the candidates subject, however, to give admission to the candidates who secured same percentage, is violative of Article 14; and (three) Rule 18 of the Rules of 1999 that provides for re-totaling the marks is violative of Article 14 of the Constitution of India more-so by deletion of provision of re-evaluation.

2. The Single Judge dismissed the writ petition by holding thus:

“Apart from fully knowing the scheme of the examination and the relevant rules in this regard, since the petitioner, having already

appeared in the examination and not getting the success, now cannot be allowed to challenge the validity of the relevant rules at this stage, more so, the provisions under challenge have time and again been scrutinized by this Court and duly been upheld. The writ petition appears to be wholly misconceived. The same is dismissed accordingly as having no merit."

3. The counsel for the appellant reiterated the three grounds noticed above before us. It is true that the Single Judge has not dealt with the aforesaid aspects but having considered the submissions of the counsel for the appellant and the response of the Commission, we are satisfied that the impugned order does not call for any interference.

4. The Commission has stated that they adopted scaling technique because there were thirty heterogeneous subjects and

large number of candidates appeared for common examination. The scaling technique is intended to bring the real merit amongst the candidates participating for common examination opting two optional subjects out of thirty heterogeneous subjects. This procedure was adopted under the guidelines of the experts. We find nothing wrong in the scaling technique adopted by the Commission.

5. As regards challenge to the constitutional validity of Rule 15 of the Rules of 1999, nothing could be pointed out by the counsel for the appellant which may prima-facie show the unconstitutionality of the said provision. The Commission has, in the reply, stated that they permitted the candidates fifteen times to the number of vacancies for main examination and three times to the number of vacancies for interview as per the

Rules of 1999. There is nothing wrong in that.

6. Similarly as regards challenge to Rule 18, the counsel for the appellant could not point out how the said provision is un-constitutional or violative of Article 14 of the Constitution of India. Merely because in earlier examination prior to the year 1999, the re-evaluation was provided, that did not create any right in favour of the examinees who appeared in 2003 examination under the Rules of 1999. Rule 18 provides for re-totaling of the marks which reads thus:

"18.Retotalling of marks:-(1)
The Commission may order re-totaling of the marks obtained by a candidate in the Main Examination during such period as may be decided by the Commission on payment of such fee as may be fixed by the Commission in their discretion from time to time but evaluation of the answer paper shall not be re-examined.

(2) The Commission may take steps to rectify such mistakes as are detected on re-totaling of the marks in pursuance of the provisions of sub-rule (1).

(3) If as a result of such rectification the Commission discovers that the candidate becomes eligible for selection, such fact shall be immediately and in any case not later than 40 days from the announcement of the result reposted to the Government and to that extent the recommendation of the Commission made under rule 17 shall stand protanto modified."

7. Having carefully considered the said provision, we find nothing wrong or unconstitutionality therein.

8. Special appeal has no merit. It is dismissed in limine.

R.S. Chauhan, J.

R.M. Lodha, J.

DK/-